

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHANDRA K. SHARMA and DEPARTMENT OF THE DEFENSE,
DEFENSE CONTRACT AUDIT AGENCY, Pasadena, Calif.

*Docket No. 97-983; Submitted on the Record;
Issued November 27, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability, due to her May 4, 1995 employment injury, beginning August 1996.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined that appellant did not meet her burden of proof in establishing that she sustained a recurrence of disability, due to her May 4, 1995 employment injury, beginning August 1996.

On May 4, 1995 appellant, a clerk-typist, injured her lower back when she fell while trying to lift a heavy box. The Office accepted appellant's claim for a lumbosacral strain. Appellant did not miss any work due to the injury.

In August 1996 appellant filed a notice of a recurrence of disability, Form CA-2a, alleging that her back continued to hurt her and she had headaches as a result of the May 4, 1995 employment injury. She stated that she had not missed work since the May 4, 1995 employment injury but had performed light-duty work and took a day off once a week or every other week for therapy.

To support her claim, appellant submitted a medical report dated August 2, 1996 from Dr. Ayad A. Alanizi, an orthopedic surgeon, who stated that appellant sustained an injury prior to the current problem of lumbosacral strain. He stated that it is well known that flexion and extension injuries of the spinal axis cause a person to be prone to recurrences of the same symptoms with a lesser degree of subsequent trauma. Dr. Alanizi stated that appellant "definitely" fell in this category as she had an injury before and she reinjured herself again.

On October 7, 1996 the Office advised appellant of the type of medical evidence needed to establish her claim.

By decision dated November 13, 1996, the Office denied appellant's claim, stating that there was insufficient medical evidence to establish that she suffered a recurrence of her back injury without an intervening cause, that her claim for sick leave taken due to complaints of pain was unsubstantiated and there was no objective medical evidence which established that she was absent from work as a result of the May 4, 1995 employment injury.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition, for which she seeks compensation was causally related to her employment injury.¹ This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.² An award of compensation may not be made on the basis of surmise, conjecture or speculation or on an appellant's unsupported belief of causal relation.³

In the present case, the only medical evidence appellant submitted was Dr. Alanizi's August 2, 1996 report, in which Dr. Alanizi stated that appellant had an injury before and reinjured herself and that flexion and extension injuries of the spinal axis cause a person to be prone to recurrences of the same symptoms with a lesser degree of subsequent trauma and appellant fell in that category. Dr. Alanizi's opinion, however, is insufficient to establish that appellant's back condition is a recurrence of the May 4, 1995 employment injury as he did not address the specific factors in appellant's case, which caused the recurrence or explain how the recurrence occurred. Therefore, his opinion does not contain the requisite medical rationale to establish causation.⁴ The Office advised appellant of the type of medical evidence needed to establish her claim for a recurrence of disability but appellant was not responsive to this request. Consequently, appellant has not established that she sustained a recurrence of disability beginning August 1996.

¹ *Dominic M. DeScala*, 37 ECAB 369 (1986).

² *Louise G. Malloy*, 45 ECAB 613, 617 (1994); *Durwood H. Nolin*, 46 ECAB 818, 821-22 (1995).

³ *Ausberto Guzman*, 25 ECAB 362 (1974).

⁴ *See Louise G. Malloy*, *supra* note 2 at 617.

The decision of the Office of Workers' Compensation Programs dated November 13, 1996 is hereby affirmed.

Dated, Washington, D.C.
November 27, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member